

II. Remarks

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1, 25-30, 32-42 and 44-47 are pending in the application. Claims 1 and 36 are independent. Claims 31 and 43 have been canceled. Claims 2-24 were canceled in a previous amendment. Claims 1, 26-30, 32-34, 36, 38-42 and 44-46 have been amended herein.

Claims 1 and 36 have been amended by incorporating therein the limitations of Claim 31 and 43, respectively. Claims 1 and 36 have also been amended to include the step of sending an instruction to the rating element, which further distinguishes the present invention over the references cited in the Office Action. These amendments are fully supported in the specification (see, for example, page 11, lines 1-7 and page 16, lines 10-19). Therefore, no new matter has been added. The amended claims are believed to be allowable for the reasons to be developed below.

Claims 1, 25-29, 31-32, 35-41 and 47 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application No. 2003/0051041 to Kalavade, et al. (hereinafter “Kalavade”) in view of U.S. Patent Application No. 2003/0134615 to Takeuchi (hereinafter “Takeuchi”) for the reasons provided at pages 2-5 of the Office Action. Claims 30 and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the grounds of rejection as applied to Claims 1 and 36 above, and further in view of U.S. Patent Application No. 2003/0096605 to Schlieben, et al. (hereinafter “Schlieben”) for the reasons provided at pages 5-6 of the Office Action. Claims 33-34 and 45-56 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the grounds of rejection as applied to Claims 31 and 43, above, and in further view of U.S. Patent Application No. 2003/0112936 to Brown, et al. (hereinafter “Brown”) for the

reasons provided at pages 6-7 of the Office Action. The rejections of Claims 41 and 43 are mooted due to the cancellation of the Claims 41 and 43. All of the remaining rejections are traversed.

According to the Office Action, Kalavade teaches a Wireless Local Area Network (WLAN) gateway system comprising: a hotspot network access server 52 (which, according to the Office Action, corresponds to the access gateway); a CBG 10 (which, according to the Office Action, corresponds to the session controller); billing modules (not numbered in Figure 9) (which, according to the Office Action, correspond to the both charging element and the rating element); an interface connected to the access gateway for connecting a mobile handset to the access gateway via said interface (line connecting items 50 and 52 in Figure 9) and a user terminal 50 (which, according to the Office Action, corresponds to the computing device).

The Kalavade system is configured to perform a method for providing access to the hotspot network access server 52 from the user terminal 50 comprising the steps of: receiving at the hotspot network access server 52 authentication information for a subscriber associated with the user terminal 50 (paragraphs 185-187); sending a secret token (which, according to the Office Action, corresponds to the first message) from the hotspot network access server 52 to the user's phone 30 (which, according to the Office Action, corresponds to the mobile handset) (paragraph 189); and, if a reply to the secret token is received from the subscriber, then permitting the user terminal 50 to access the hotspot network access server 52 (paragraphs 190-191), and if no reply to the secret token is received, then denying the user terminal 50 to access the hotspot network access server 52 (paragraphs 190-191).

Also according to the Office Action, Takeuchi teaches an authentication system for use with mobile phones. Takeuchi teaches the idea that the device must return a response

(which, according to the Office Action, corresponds to the authentication information) in a given time period (which, according to the Office Action, corresponds to the configurable interval) or the authentication will fail and access will be denied (paragraph 97 and Figure 6). Takeuchi also teaches that if a reply (i.e., the authentication information) is received in the given time period, the service is provided to the user, and if no authentication information is received within the predetermined or given time period, then the service is denied.

Applicants have amended Claims 1 and 36 to include the features as indicated in the above Listing of Claims. Of particular note, it is respectfully submitted that at least the feature:

sending an instruction to said rating element to determine a rate for packets carried between said computing device and said WLAN access network to establish a rate of charge for each of said packets according to a different classification assigned to each of said packets

renders Claim 1 novel and non-obvious over the prior art. The prior art does not teach or suggest the step of sending an instruction to a rating element to determine a rate for packets, and indeed the prior art does not even teach or suggest a rating element. Kalavade, in particular, does not disclose or suggest a rating element or a rating function. For at least this reason, the amended claims are now patentable over the references cited in the Office Action.

In the amendment to Claims 1 and 36, Applicants have additionally incorporated the features of now-canceled Claim 31. Applicants note that regarding Claims 31 (and 43), the Office Action states that

Kalavade further teaches the idea of sending an instruction from the access gateway to the charging element representing charging details associated with access of the server by the computing device in figure 32. (see the usage information accounting request message sent to the CBG from the router, further see par. 414-416).

In response, Applicants note that the cited text from Kalavade merely describes the receipt and forwarding of charging information via the CBG. Kalavade does not disclose a means *to rate* the data traffic or otherwise interpret the information received from the LAN network. For example, at Paragraph 13, Kalavade teaches that the CBG receives and forwards (transmits) that information to a downstream (post-paid) billing system. At Paragraph 232, Kalavade emphasizes that the *“actual rating is done by the operator’s existing systems.”* Applicants note that unless the Network Operator employs very basic rating schemes (e.g., time or volume of data transmitted) significant and costly modifications to the Network Operators existing billing systems are required. In contrast, the present application, at page 16, lines 10-19, discloses a means whereby more sophisticated forms of data rating can be employed without modifying the Network Operators existing billing system. Accordingly, Kalavade does not teach rating within the CBG. In fact, Kalavade, at Paragraph 232 states that the CBG itself preferably *does NOT generate any billing information and that the CBG merely collects usage information and couples to the operator’s billing entities that use this usage information to generate the final bill.* Kalavade therefore teaches away from the rating feature as current claimed, thereby rendering the current claim non-obvious over Kalavade in conjunction with prior art for this additional reason. Therefore, Kalavade fails to disclose “sending an instruction from said access gateway to said charging element representing charging details associated with the access of said server by said computing device, said charging details based on said rate” as recited in independent Claim 1 as amended.


In addition, each of dependent Claims 25-30 and 34-35 depends from independent Claim 1 and each of dependent Claims 37-42 and 44-47 depends from independent Claim 36.

Accordingly, each of these dependent claims is allowable over the named references for the same reasons as those discussed above.

In view of the above remarks, it is believed that this application is now in condition for allowance, and a Notice thereof is respectfully requested.

Applicants' attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3500. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

A handwritten signature in cursive script, reading "James A. Gromada", is positioned above a horizontal line.

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